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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,478	07/18/2003	Steven D. Joder	I-23428	4551

7590 02/05/2007	EXAMINER
Richard S. MacMillan MacMillan, Sobanski & Todd, LLC One Maritime Plaza, Fourth Floor 720 Water Street Toledo, OH 43604	MALHOTRA, SANJEEV

ART UNIT	PAPER NUMBER
3693	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
Office Action Summary	10/623,478	JODER ET AL.
	Examiner	Art Unit
	Sanjeev Malhotra	3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 July 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 July 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some *   c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

This is the first Office Action in response to the application filed on July 18, 2003 and titled: "Method, Apparatus and System for Quality Performance Evaluation of a Supplier Base".

Drawings Objections

The Drawings (Fig. 1 to Fig. 5 on six sheets) submitted by the Applicant were received on July 18, 2003. Form 948 is attached herewith documenting the objections raised by the USPTO's Draftsperson.

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of the deficiencies noted in attached USPTO Form 948 incorporating our Draftsperson's review. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid the abandonment of this application. The requirement for corrected drawings will not be held in abeyance.

Priority Date Claim Objections

This application was filed on July 18, 2003 and it is a CONTINUATION of an international PCT application filed on January 18, 2002, and the aforesaid international PCT application claims priority from three (3) US provisional

applications filed in the year 2001, with the earliest one going as far back as

January 18, 2001 (#60/262,867) and this application '867 consists of three (3)

pages of Specification and two (2) sheets of Drawings without recitation of any

Claims for a total of five (5) pages. In comparison, the current application

(#10/623478) consists of twelve (12) pages of Specification, six (6) sheets of

Drawings, and three (3) pages of 16 Claims for a total of twenty-one (21) pages.

Also, the US provisional application #60/262,867 (first of three) filed on

January 18, 2001 does NOT disclose all the claims of current pending US non-

provisional application #10/623478 filed on July 18, 2003. The Examiner notes

that the US provisional application #60/262,867 was focused on a "software

application tool" as reflected in its title "Software Application Tool to Analyze

Quality Performance of Supplier Base", which is a "computer program product".

The US provisional application #60/291,443---filed on May 16, 2001---consists of

nine (9) pages of Specification to include an only "Claim 1" and 2 pages of

Drawings for a total of eleven (11) pages, and thus, the Examiner has made a

determination that the whole US non-provisional application (#10/623478) is only

entitled to the benefit of the filing date of US provisional application #60/291,443.

On the other hand, the US provisional application #60/291,443 describes a

"method" in its Claim 1, and the current non-provisional application's

(#10/623478) focus is also on the "method" as noted in its Claims 1-16. Thus,

the Examiner gives application #10/623478 --- the current US non-provisional

application --- a priority date of May 16, 2001, when the second (#60/291,443) of

the three US provisional applications in this matter was filed to the US Patent and

Trademark Office.

The Examiner respectfully requests the Applicant to submit in its reply

which of its Claims can have priority back to January 18, 2001 based on its filing

of the US provisional application #60/262,867, since the Examiner has already

determined that not all of the Applicant's claims can have that priority date.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

Independent Claim 1 contains the following deficiency rendering this claim

indefinite:

With respect to Claim 1(d), the claim fails to positively recite the process of

generating the data/information. The generating step is recited only as an

intended result. It is suggested that this step either be canceled or be

amended to read as follows: "generating information regarding the quality

of performance of the plurality of suppliers by utilizing the single

database." The Examiner has interpreted the claim as being so recited.

Dependent Claims 2-16 are also rejected based on the foregoing analysis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

Claims 1-3, 8, and 14-16 are rejected under 35 U.S.C. 103(a) as being

unpatentable over the US Patent #6,199,059 issued to Dahan, et. al. (hereinafter

"Dahan") and in view of McKay, et. al. vide Publication No. US 2002/0082891

(hereinafter "McKay").

Claim 1:

With respect to Claim 1, Dahan teaches a method of generating

information regarding the quality of performance of a plurality of suppliers

that each supply products to a vendor, said method comprising the steps

of :

"gathering data regarding (the quality of performance of the plurality of

suppliers) in a plurality of different computer databases" (please see

Column 3, lines 55-58);

"storing the gathered data from the plurality of different computer

databases in a central controller" (please see Column 3, lines 58-66);

"converting the stored data in the central controller into a single database"

(please see Column 3, lines 66-67 to Column 4, line 1); and

"generating information regarding (the quality of performance of the

plurality of suppliers) by utilizing the single database" (please see Column

3, line 55 to Column 4, line 1, FIG. 3, and Column 6, lines 54-67), but

Dahan fails to teach that the gathered/generated data pertains to the

quality of performance of a plurality of suppliers. However, McKay in the

same field of endeavor teaches gathering/generating the quality of

performance of a plurality of suppliers. Therefore, it would have been

obvious to one of ordinary skill in the art at the time the invention was

made to incorporate the features of McKay as discussed above into

Dahan, because the combination of Dahan with McKay would allow non-

compatible databases to be searched as described in Dahan and verify

the quality of performance data via an audit as described in McKay

(please see Page 1, paragraph [0005] and Page 2, paragraphs [0016]

and [0017]).

Examiner notes that Dahan inherently teaches "the quality of performance data"

as an "attribute" of any virtual object in a database described by Dahan as "the

invention allows the presentation and modification of the virtual object's data

even if the data resides in a database external to the invention's own database"

(please see Column 3, lines 49-51).

Claim 2:

With respect to dependent Claim 2, Dahan teaches a method of "gathering

data regarding the quality of performance of the plurality of performance of

the plurality of suppliers in a plurality of different computer databases that

are non-compatible" (please see Column 3, lines 26-34).

Examiner notes that Dahan's phrase "the search schemas to be independent of

the databases" in the sentence, "The virtual object hierarchy 210 allows the

search schemas to be independent of the databases." represents the "computer

databases that are non-compatible" as claimed.

Claim 3:

With respect to dependent Claim 3, Dahan teaches a method of

"converting the stored data in the central controller into a single

compatible database" (please see Column 3, lines 26-34, 49-51, and

Column 7, lines 10-17).

Claim 8:

With respect to dependant Claim 8, Dahan teaches a method of

"processing the stored data in a single database to create a series of

quality metrics and using the series of quality metrics to judge the

performance of one or more of the plurality of suppliers." (please see

Column 6, line 54 to Column 7, line 9, and in Column 7, lines 15-26) in

view of McKay for the "performance of one or more of the plurality of

suppliers" data (please see paragraphs [0014] and [0015] on Page 2).

Examiner notes that Dahan's "virtual objects" and "user functions" perform similar

functions as "to create a series of quality metrics" as well as using those "quality

metrics to judge the performance of one or more of the plurality of suppliers.",

and that a "single database" is described by Dahan in Column 3, lines 23-28 and

Column 3, line 66 to Column 4, line 1.

Claims 14-16:

With respect to dependant Claims 14, 15 and 16, Dahan teaches a

method to/for "generate a non-conforming material report whenever a

defective product is supplied to the vendor" of Claim 14 and "transmitting

the non-conforming material report to the supplier" of Claim 15 as well as

"requesting a corrective action report from the supplier whenever a non-

conforming material report is generated." of Claim 16 (please see Dahan's

Column 4, lines 14-59, and Column 6, lines 26-67 to Column 7, lines 1-9)

in view of McKay about the "quality of performance" data (please see

paragraphs [0019] and [0020] on Page 2).

Examiner notes that Dahan's teachings include "A search schema is potentially a

subset of the objects defined in an associated virtual object hierarchy and is used

by end user to navigate, classify, search, and retrieve instances of the selected

objects in the database(s). As search schema may link to many virtual objects,

the search schema can classify and retrieve data from different database

management systems." Further, Dahan's teachings include "User functions may

be created by a user, and administrator, or the software provider. The user

defined may search for and change data in the database 1550. The user-defined

functions may perform different tasks such as performing a calculation on data or

dynamically cleansing data."

Claims 4-7 and Claims 9-12

Claims 4-7 and 9-12 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Dahan in view of McKay as discussed in Claim 1 analysis and

further in view of US Patent #6,081,840 issued to Zhao, Yan (hereinafter "Zhao").

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to incorporate the features of Zhao as discussed

below into Dahan and McKay, because the combination of "real time" data over

the "internet" or a "global communication network" would allow users to have

access to this data 24 hours a day on a world-wide-web (www) basis from a

computer located anywhere in the world.

Claims 4-7:

With respect to "real time" or "near real time" of Claims 4-7, Zhao teaches

this concept, which is recited as follows, "When any management table,

collection, or content file update occurs in the source server (i.e., central

controller), the source content manager 42 will send a message to the

data replication manager 46 to start a data replication. The data

replication manager 46 then controls the process whereby the data is

copied from the source server to the local server(s). This can also be

done on a scheduled basis instead of automatically (i.e., real time) as

described above." (please see lines 8-15, Column 7).

All other limitations of dependent Claims 4-7 have been addressed in the

independent Claim 1 rejection.

Claims 9-12:

With respect to "global communication network" of Claims 9-11 and

"internet" of Claim 12, Zhao teaches that "The communications network 12 can

be any communication network system which allows the source and local servers

to communicate with each other and exchange data. The local servers 14 and

16 are connected over the communications networks 18 and 20 to the end users

22, 24, 26 and 28 as illustrated." (please see Column 4, lines 3-15) and Zhao

further teaches that "The networks 18 and 20 may be the same as the network

12, or may be different. For example, communications may be by use of the

Internet system between all of the components of the content distribution system,

or networks outside the Internet, such as LAN's or other dedicated networks,

may be used for portions of the network communications interconnecting the

servers and users." (please see Column 4, lines 19-41).

Claim 13:

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Dahan in view of McKay as discussed in Claim 1 analysis and further in view of

the QualTrend software disclosed in the specification of this application, and

specifically described in an article titled "QualTrend FAQ's" on the website,

www.qualtrend.com, wherein it clearly shows that this "color-coding" is a

capability of the QualTrend software and not of this application.

With respect to Claim 13, the "quality of performance" of any supplier is

generated "using a color-coding scheme" is a known prior art and a known

capability of the software package QualTrend. The QualTrend FAQ's article

referenced above states, " QualTrend's Dashboard uses a red-yellow-green,

"traffic light" style display for identifying areas of non-conformance to pre-defined

KPI's; corrective action resources can be immediately directed to areas requiring

attention. Additional custom dashboards can be created, and alarms pro-actively

triggered to respond and notify anyone in the system." (please see answer to the

last question at end of page 2 of the enclosed article from the QualTrend

website); and this is identical when compared to this applicant's Specification

from Page 6, line 29 to Page 7, line 5, wherein is described the use of "color-

coding scheme" with the color "green" as "first range" (i.e., safe range), color

"yellow" as "second range" (i.e., caution range), and color "red" as "third range"

(i.e., danger range). Further, the Examiner respectfully requests the inventors

and/or the assignees to explain the capabilities of all the software packages

described in their 12-page Specification, including QualTrend and WinSPC, as

well as provide proper documentation of the capabilities of these software

packages for the priority date claimed by the applicant (January 18, 2001) as well

as the priority date determined herein by the Examiner (May 16, 2001).

Conclusion

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure is:

1. Ben Porat, et. al., Publication Number WO 01/ 04775 A2

    claiming priority date of July 14, 1999 and titled: "A Method for

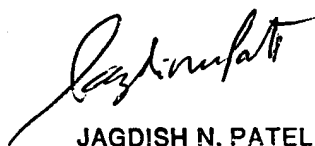   Constructing a Homogeneous Electronic Catalog".

2. Wetherbee, Jonathan per US Patent #5,937,409 claiming

priority date of July 25, 1997 and titled: "Integrating Relational

Databases in an Object Oriented Environment".

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Sanjeev Malhotra whose telephone number is

571-272-7292. The examiner can normally be reached on Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, James A. Kramer can be reached on 571-272-6783. The

fax phone number for the organization where this application or proceeding is

assigned is 571-273-8300.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

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direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

SM

JAGDISH N. PATEL
PRIMARY EXAMINER